

Case No. CIV-09-389-L

5. Concerning the allegations contained in paragraph 10 of plaintiff's Complaint,

defendant admits that the Oklahoma Board of Medical Licensure and Supervision issued the Final Order of Suspension as is outlined in plaintiff's Complaint. Defendant does not admit, however, to the facts as outlined in the Final Order of Suspension nor does defendant admit to the accuracy of the outlined unprofessional conduct.

6. Concerning paragraphs 12 and 16 of plaintiff's Complaint, defendant denies that plaintiff had the legal right to settle a lawsuit against him and then seek indemnification and recovery of legal and case related expenses.

Concerning the "Claims for Relief" section of plaintiff's Complaint, defendant denies that plaintiff has the legal right to seek indemnification from him, all costs/fees/money if paid in a lawsuit settled without defendant's consent. Defendant additionally denies that plaintiff has the legal right to any further relief.

Concerning the "Confidential Provisions" of plaintiff's Complaint, defendant asserts he has a legal right to receive a copy, in its entirety of the Pooled Comprehensive Liability Program Agreement. Defendant also asserts that he has a legal right to receive a copy, in its entirety, of all fees and costs which plaintiff paid to defend the underlying "malpractice" case.

#### **Affirmative Defenses**

1. This Court lacks personal jurisdiction over defendant.
2. This Court is not the appropriate venue for this action.
3. Plaintiff voluntarily, gratuitously and without the consent of defendant paid a settlement which it did not owe.
4. Plaintiff has failed to timely assert its alleged rights.
5. Plaintiff has not timely filed its lawsuit (statute of limitations).

WHEREFORE, defendant prays that plaintiff take nothing.

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**Certificate of Service**

This is to certify that on the 3<sup>rd</sup> day of June, 2009, the foregoing ANSWER was filed electronically with the Clerk of the Court for the for U.S. District Court, Western District of Oklahoma, using the electronic case filing system of the court. The electronic case filing system sent a Notice of Electronic Filing to the following ECF registrants:

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